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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,668	08/25/2003	Fujio Akahane	Q77134	2143
23373	7590	09/01/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			CRANE, DANIEL C	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8P

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/647,668	AKAHANE ET AL.
	Examiner	Art Unit
	Daniel C. Crane	3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on 20 July 2005.
- 2a)  This action is FINAL.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-9, 11, 12, 14-16 and 19-26 is/are rejected.
- 7)  Claim(s) 10 and 13 is/are objected to.
- 8)  Claim(s) 17 and 18 are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All    b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

### **BASIS FOR REJECTIONS**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **REJECTION OF CLAIMS ON FORMAL MATTERS**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With reference to claim 24 at lines 6-8, it is unclear to what "total cross sectional area in parallel with the first direction of the punches" is smaller than the "first cross sectional area in parallel with the first direction" of the first part. This claim has been examined as best understood.

## REJECTION OF CLAIMS OVER PRIOR ART

Claims 1-9, 14-16 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Widell (2,825,407). See Figures 7-9 where the punching apparatus is provided with guide members 70, 74, 76 support all sides of the punches 116. As to claim 6, two adjacent punches 116 are supported by the projections on guide member 70 and 74. With respect to claim 8, as long as the finished product, i.e., “guide face”, is shown by the prior art, than the prior art meets the claim. The initial shape of the plate (“has been subjected to a plastic working”, claims 14 and 15) does not further define the apparatus. The apparatus has the capability of shearing any type of material whether it is flat or has been given preliminary shaping by plastic working with a bottom recess (“having a slope face”). With reference to claim 16, the punches 116 are adaptable to shear any sheet-like material (“paper or other materials (column 1, lines 20-21)). As to claim 24, this claim has been examined as best understood per the objection noted above. With reference to Figure 7, the base member includes a first part 118 and a second part 108 with the rigidity of the first part 118 inherently having a greater rigidity than the punches 116 in light of their different cross section. The cross sectional area of the first and second parts are clearly different with the second part having a greater cross sectional area than the first since the second part 108 has a greater height than the first part 118. A guide member 120 is also shown to support the first part 118 during movement of the punches 116. As to claim 26, note that the fixation member, which comprises bars 142 or 144 are limited in movement due to the restricted movement of the cam 92.

Claims 1, 3, 14-16, 19, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Smeets (3,125,917). See Figure 1 where the guide member 15 supports the side faces 85 of the punches 64, 83. With reference to claim 14 and 15 and 16, see the comments in the preceding paragraph.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widell (2,825,407). Widell shows the claimed punching apparatus but does not show the specific dimensions. It is the examiner's position that the prior art is adaptable to being dimensioned to produce any sized workpiece, be it small or large. Clearly, the sizing of the punches would have been dictated by the required dimensions of the workpiece. Accordingly, the skilled artisan having the benefit of Widell's teaching would have been disposed to have designed the apparatus to produce any desired size punched workpiece.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smeets (3,125,917) in view of Dacey (4,993,295). Smeets shows that the punches are almost flush with the second side of the guide member face. Positioning the punch end to be flush with the side of the stripper/guide member that contacts the plate is known as shown by Dacey in Figure 2 so that the punch is in a ready position to shear the plate. Accordingly, it would have been obvious to the skilled artisan at the time of the invention to have modified Smeets punches by positioning them as taught by Dacey so as to orient the punches in a ready position to shear the plate.

### **WITHDRAWAL OF NONELECTED CLAIMS**

Claims 17 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 20, 2005.

### **INDICATION OF ALLOWABLE SUBJECT MATTER**

Claims 10 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **PRIOR ART CITED BY EXAMINER**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

### **RESPONSE BY APPLICANT(S)**

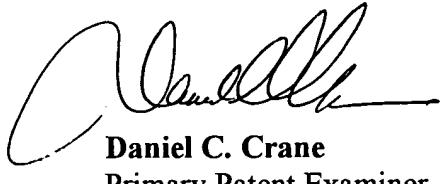
Applicant(s) response to be fully responsive and to provide for a clear record must specifically point out how the language of the claims patentably distinguishes them from the references, both those references applied in the objections and rejections and those references cited in view of the state of the art in accordance with 37 CFR 1.111 (a), (b) and (c).

## INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**. The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at **(571) 272-4419**.

Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number (703) 872-9306. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is **(571) 273-4516**.

DCCrane  
August 31, 2005



**Daniel C. Crane**  
Primary Patent Examiner  
Group Art Unit 3725